



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,434	05/15/2001	Uwe Trinks	103057-157-NP	9018

7590 03/10/2004
Richard I. Samuel
Goodwin Procter LLP
7 Becker Farm Road
Roseland, NJ 07068

EXAMINER

EHICHIOYA, FRED I

ART UNIT	PAPER NUMBER
----------	--------------

2172

9

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,434

Applicant(s)

TRINKS ET AL.

Examiner

Fred I. Ehichioya

Art Unit

2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34 -65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34 -65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicants cancel claims 1 - 33.
2. Applicants add new claims 34 – 65.
3. Applicant's arguments with respect to claims 34 - 65 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 34, 36 – 40, 50, and 52 - 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,544,044 issued to Sheila Leatherman (hereinafter "Leatherman") in view of U.S. Patent 5,924,074 issued to Jae A. Evans (hereinafter "Evans").

Regarding claim 34, Leatherman teaches a method of reporting adverse event information, said method comprising;

associating each one of a selectable plurality of popular terms with one or more related standardized terms (see column 8, lines 45 – 46 and column 14, lines 22 – 32);

providing a user interface having said selectable plurality of popular terms (Evans: column 5, lines 56 – 67) and a related selectable graphical depiction for reporting adverse event data associated with said selectable graphical depiction, reviewing said reported adverse event data and monitoring said reported adverse event data (see column 3, lines 37 – 50); and

selecting one or more of said plurality of selectable popular terms and at least a portion of said selectable graphical depiction (see column 4, lines 63 – 67); and

generating a standardized report comprising said one or more related standardized terms associated with said selected one or more of said selectable plurality of popular terms (see column 1, lines 36 – 43 and column 3, lines 45 – 50).

Leatherman does not explicitly teach user interface.

Evans teaches providing a user interface having said selectable plurality of popular terms (column 5, lines 56 – 67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine teaching of Evans with the teaching of Leatherman wherein the system incorporates graphical user interface. The motivation is that graphical user interface allows healthcare provider to select and schedule patients' appointments.

Regarding claim 36, Leatherman teaches storing said popular and standardized terms associations in a storage medium (see column 3, lines 45 – 50).

Regarding claim 37, Leatherman teaches storing said standardized report is a storage medium (see column 3, lines 45 – 50).

Regarding claim 38, Evans teaches associating said selected one or more of said plurality of selectable popular terms and related standardized term(s) with said selected at least a portion of said selectable graphical depiction and storing said associations in said storage medium (see column 6, lines 37 – 54).

Regarding claim 39, Leatherman teaches editing said reported adverse event data (see column 11, lines 47 – 67 and column 12, lines 1 – 12).

Regarding claim 40, Evans teaches plurality of popular terms comprises descriptive medical and diagnostic indicia (see column 11, lines 17 – 30).

Claims 50, 52 – 56 are essentially the same as claims 34, 36 - 40 respectively except that they set forth the claimed invention as a system rather than a method and therefore rejected for the same reasons as applied hereinabove.

6. Claims 35, 41 – 44, 51, and 57 - 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leatherman in view of Evans and further in view of U.S. Patent 5,601,079 issued to Jacob Y. Wong et al (hereinafter "Wong").

Regarding claim 35, Leatherman or Evans does not explicitly teach regulatory body.

Wong teaches transmitting said standardized report to an appropriate regulatory body (see column 1, lines 25 – 35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine teaching of Wong with the teaching of Leatherman and Evan wherein American Diabetics Association is the regulatory body. The motivation is that American diabetics association control and create programs that enables persons with diabetes to control the illness.

Regarding claim 41, Wong teaches plurality of popular terms comprises performance measurement information (see column 1, lines 43 – 54).

Regarding claim 42, Wong teaches graphical depiction comprises an animal. body and wherein said plurality of popular terms comprises related common descriptive terms (see column 6, lines 52 – 60 and column 19, lines 10 – 11).

Regarding claim 43, Wong teaches graphical depiction comprises a human body and wherein said plurality of popular terms comprises related common descriptive terms (see column 6, lines 53 – 60 and column 13, lines 61 – 62).

Regarding claim 44, Wong teaches graphical depiction comprises a product and wherein said plurality of popular terms comprises related common descriptive terms (see column 11, lines 53 - 58).

Claims 51, 57 – 60 are essentially the same as claims 35, 41 - 44 respectively except that they set forth the claimed invention as a system rather than a method and therefore rejected for the same reasons as applied hereinabove.

7. Claims 45 – 49, and 61 - 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leatherman in view of Evans and further in view of U.S. Patent 6,272,370 issued to George T. Gillies et al (hereinafter "Gillies").

Regarding claim 45, Leatherman or Evans does not explicitly teach graphical depiction comprises a mechanical system and wherein said plurality of popular terms comprises related common descriptive terms.

Gillies teaches graphical depiction comprises a mechanical system and wherein said plurality of popular terms comprises related common descriptive terms (see column 2, lines 49 – 56).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine teaching of Gillies with the teaching of Leatherman and Evan wherein implant in made by means of mechanical system. The motivation is that is that mechanical pushing propels the implant.

Regarding claim 46, Gillies teaches graphical depiction comprises an electrical system and wherein said plurality of popular terms comprises related common descriptive terms (see column 23, lines 13 – 15).

Regarding claim 47, Gillies teaches graphical depiction comprises a biological system and wherein said plurality of popular terms comprises related common descriptive terms (see column 18, lines 27 – 28).

Regarding claim 48, Gillies teaches graphical depiction comprises a chemical system and wherein, said plurality, of popular terms comprises related common descriptive terms (see column 6, lines 62 – 64).

Regarding claim 49, Gillies teaches graphical depiction comprises a hybrid system and wherein said plurality of popular terms comprises related common descriptive terms (see column 2, line 35).

Claims 61 – 65 are essentially the same as claims 45 - 49 respectively except that they set forth the claimed invention as a system rather than a method and therefore rejected for the same reasons as applied hereinabove.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred I. Ehichioya whose telephone number is 703-305-8039. The examiner can normally be reached on M - F 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on 703-305-9790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Fred I. Ehichioya
Examiner
Art Unit 2172
February 25, 2004


SHAHID ALAM
PRIMARY EXAMINER